

## **REMARKS/ARGUMENTS**

Please reconsider the application in view of the following remarks. Applicant thanks Examiner for indicating that the drawings filed June 19, 2003 are accepted and acknowledging the information disclosure statement filed January 23, 2008.

### **Disposition of Claims**

Claims 5-10, 12-35, 38-39, 42-49, 51-61, and 63-73 were pending in this application. Claims 6, 7, 47, 8, 48, 10, 13, 52, 19, 58, 20, 59, 72, 22-27, 61, 63, 64, 73, 29, 30-33, 65-68, 35, 69, 38, 39, 70, 42, and 43 are withdrawn by Examiner in the office action dated July 25, 2008. Therefore claims 5, 9, 12, 14-18, 21, 28, 34, 44-47, 49, 51, 53-57, 60 and 71 are pending in this application. Claims 5, 12, 21, 28, 44-46, 51, 60, and 71 are independent. Claims 9, 14-18, 34, 47, 49 and 53-57 depend, directly or indirectly from claims 5, 12, 21, 46, and 51.

### **Election/Restrictions**

Examiner states that claims 6, 7, 47, 8, 48, 10, 13, 52, 19, 58, 20, 59, 72, 22-27, 61, 63, 64, 73, 29, 30-33, 65-68, 35, 69, 38, 39, 70, 42, and 43 do not read on the elected embodiment as elected in reply to office action filed on 04/16/2008. Claims 6, 7, 47, 8, 48, 10, 13, 52, 19, 58, 20, 59, 72, 22-27, 61, 63, 64, 73, 29, 30-33, 65-68, 35, 69, 38, 39, 70, 42, and 43 are withdrawn by way of this reply.

### **Claim Amendments**

Claim 34 is amended to address the antecedent basis issues as a result of the withdrawn claims. Claim 51 is amended to correct a typographical error. No new matter is added by way of these amendments.

### **Rejections under 35 U.S.C. § 112**

Claim 60 stands rejected under 35 U.S.C. § 112 as failing to comply with the written description requirement and being indefinite for failing to particularly point out and distinctly

claim the subject matter. Claim 60 was withdrawn in the previous reply to office action filed April 16, 2008, thus the rejection is moot.

Claims 51-58 stands rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter due to the fact pointed out by Examiner that claim 51 does not end in a period. Claim 51 is amended to add the period. Therefore claim 51 as amended is no longer indefinite. Claims 52-58 depend from claim 51 and are no longer indefinite for at least the same reason.

In view of the above, withdrawal of this rejection is respectfully requested.

### **Rejections under 35 U.S.C. § 102**

Claims 5, 9, 12, 14-18, 21, 28, 34, 38, 44-46, 49, 51, 53-57, 60 and 69-71 stand rejected under 35 U.S.C. § 102 as being anticipated by Delwala (2002/0172464). Claims 38, 69, and 70 are withdrawn by way of this reply, thus the rejection with respect to claims 38, 69, and 70 is moot. To the extent that this rejection may still apply to the remaining claims, the rejection is respectfully traversed.

Turning to the rejection, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis added). Further, “[t]he identical invention must be shown in as complete detail as is contained in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The Applicants respectfully assert that Delwala does not expressly or inherently describe each and every element of claims 1, 7, and 11.

In the office action dated July 25, 2008, Examiner points to 108 in Delwala as being equivalent to Germanium recited in each of the rejected claims, 191 in Delwala as being equivalent to Silicon recited in the rejected claims, and 120 in Delwala as being equivalent to contacts coupled to Germanium recited in the rejected claims. See, for example pages 10-30 of the office action. Applicant respectfully submits that Examiner is erroneous in all these presumed equivalence.

Delwala teaches 108 as 2DEG (2D electron gas) formed at the interface between Silicon and oxide. See, for example paragraph [0113] of Delwala. Applicant respectfully submits that one skilled in the art will recognize that it is explicitly clear that 2DEG, which is electron gas and can not be equated to Germanium as recited in each of the rejected claims.

Delwala teaches 191 as a polysilicon layer. See, for example paragraph [0091] of Delwala. Applicant respectfully submits that one skilled in the art will recognize that it is explicitly clear that polysilicon layer, which does not have single crystalline structure and can not be equated to Silicon as recited in each of the rejected claims.

Delwala teaches 120 as a gate contact coupled to gate oxide. See, for example paragraph [0102] of Delwala. Applicant respectfully submits that one skilled in the art will recognize that it is explicitly clear that gate contact, which is coupled to gate oxide and can not be equated to contacts coupled to Germanium as recited in each of the rejected claims.

In view of the above, Delwala fails to disclose all the limitations of each of the rejected claims. Accordingly, withdrawal of this rejection is respectfully requested.

In addition, claim 47 is not listed in the office action summary as being rejected and is not referred to in the detailed action. Applicant respectfully requests Examiner to indicate claim 47 as being in condition for allowance.

### Conclusion

In view of the foregoing, Applicant believes that all of the claims 5, 9, 12, 14-18, 21, 28, 34, 44-47, 49, 51, 53-57, 60 and 71 are now in condition for allowance and respectfully requests the Examiner to issue a timely Notice of Allowance. If for any reason, the Examiner believes any of the claims are not in condition for allowance, he is encouraged to phone the undersigned at (650) 325-4999 so that any remaining issues may be resolved.

Respectfully submitted,

\_\_\_\_/Dennis S. Fernandez/\_\_\_\_\_  
Dennis S. Fernandez, ESQ.  
Reg. No. 34,160

Date: 9/16/2008

Address: **FERNANDEZ & ASSOCIATES, LLP**  
Patent Attorneys

Customer No: **22877**

Phone: (650) 325-4999  
Fax: (650) 325-1203  
Email: [iploft@iploft.com](mailto:iploft@iploft.com)